

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

CRAIG CUNNINGHAM,

Plaintiff,

v.

**BRITEREAL MANAGEMENT, INC., et
al.,**

Defendants.

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Civil No. 4:20-cv-144-SDJ-KPJ

**MEMORANDUM ADOPTING REPORT AND
RECOMMENDATION OF UNITED STATES MAGISTRATE JUDGE**

Came on for consideration the report of the United States Magistrate Judge in this action, this matter having been heretofore referred to the Magistrate Judge pursuant to 28 U.S.C. § 636. On November 20, 2020, the Magistrate Judge entered proposed findings of fact and recommendations (Dkt. #21) that Defendant Britereal Management, Inc. and Anna Yeh's (collectively, "Defendants") Motion to Dismiss (Dkt. #8) be granted in part and denied in part.

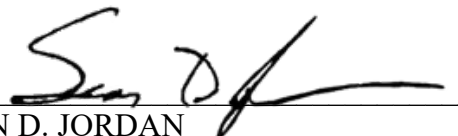
Having received the Report of the United States Magistrate Judge on November 25, 2020, and no timely objections being filed, the Court is of the opinion that the findings and conclusions of the Magistrate Judge are correct and adopts the Magistrate Judge's report as the findings and conclusions of the Court.

Accordingly, Defendant's Motion to Dismiss (Dkt. #8) is hereby **GRANTED IN PART** and **DENIED IN PART**.

Defendant's Motion to Dismiss is **GRANTED** as to Plaintiff's claims under the Telephone Consumer Protection Act ("TCPA"), 47 U.S.C. § 227(c), as Plaintiff has failed to state a claim.

Defendant's Motion to Dismiss is **DENIED** as to Plaintiff's claims under TCPA § 227(b) and Texas Business and Commerce Code § 305.053.

So ORDERED and SIGNED this 16th day of December, 2020.


SEAN D. JORDAN
UNITED STATES DISTRICT JUDGE